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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12

13 KESTON CHEATHAM,

14 Plaintiff,

15 vs.

16 COUNTY OF SAN BERNARDINO,  
17 CITY OF HESPERIA, CHARLES  
18 FOSTER, JOSEPH NÉCOCHEA,  
DOES 1-10

19 Defendants.  
20

Case No.:

COMPLAINT FOR DAMAGES  
(42 U.S.C. SECTION 1983);  
DEMAND FOR JURY TRIAL

21 Plaintiff Keston Cheathem alleges as follows:

22 1. This is a civil rights action brought under 42 United States Code section  
23 1983 by Plaintiff Keston Cheathem against the County of San Bernardino, the City of  
24 Hesperia, including its Police Department, and their employees individually (the  
25 “individual Defendants”) and in their official capacities because of a concerted  
26 systematic abuse of authority, including but not limited to unlawful seizure of  
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1 plaintiff's person (excessive force), false arrest, and malicious prosecution and other  
2 unlawful acts.

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4 2. Jurisdiction is conferred upon this Court by 28 United States Code Sections  
5 1331 and 1343, and arises under 42 United States Code Section 1983.

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7 3. Each claim arises out of an incident where Plaintiff's rights to be free from  
8 unlawful seizures under the Fourth and Fourteenth Amendments of the United States  
9 Constitution were violated.

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11 4. Plaintiff is, and at all times mentioned in this Complaint, a citizen of the  
12 United States of America. Plaintiff is a citizen of California domiciled in San  
13 Bernardino County, California.

14  
15 5. Plaintiff is the victim of the Hesperia Police Department and the County of  
16 San Bernardino and its employees, Charles Foster and Joseph Necochea, including and  
17 the Defendants sued fictitiously as Does 1 through 10, (collectively "the individual  
18 Defendants"), who acted under color of law and within the scope of their authority and  
19 pursuant to the policies and practices of the City of Hesperia through its Police  
20 Department and the County of San Bernardino through its Sheriff's Department.

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22  
23 6. Each of the individual Defendants, at all times mentioned in this Complaint,  
24 were acting in the scope and course of their employment with Defendants City of  
25 Hesperia and County of San Bernardino.

1           7. Each of the individual Defendants, at all times mentioned in this Complaint,  
2 is sued in their individual and official capacity. On information and belief, each of the  
3 individual Defendants is a resident of California.  
4

5           8. Plaintiff is ignorant of the true names and capacities of Defendants sued  
6 herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such  
7 fictitious names. Plaintiff will amend this Complaint to allege their true names and  
8 capacities when ascertained. Plaintiff is informed and thereon allege that each of the  
9 fictitiously named Defendants are responsible in some manner for the occurrences  
10 herein alleged, and that Plaintiff's injuries as herein alleged were proximately caused  
11 by their conduct.  
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15           9. At all times herein mentioned Defendant City of Hesperia was a municipal  
16 corporation organized and existing as such under the laws of and within the State of  
17 California and located within San Bernardino County, California. The County of San  
18 Bernardino is a County within the State of California.  
19

20           10. This Complaint arises out of the arrest, detention and prosecution of Plaintiff  
21 Keston Cheatham (hereinafter "Plaintiff") starting on May 1, 2014 at 16081 Bear  
22 Valley Road, Hesperia, California. Plaintiff was falsely arrested without probable  
23 cause and excessive force was used on Plaintiff by the individual Defendants by a  
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1 Taser deployed against him. Plaintiff was maliciously prosecuted for violation of  
2 California Penal Code section 148, but he was acquitted by a jury on March 26, 2015.  
3

4 11. The City of Hesperia and the County of San Bernardino had customs,  
5 practices, and policies of using excessive force on arrestees, of falsely arresting people  
6 who did not commit a crime, and of maliciously prosecuting them.  
7

8 12. The Taser caused bodily injury to Plaintiff. Plaintiff continues to suffer  
9 damages including economic and non-economic damages, and it is expected that  
10 Plaintiff will have future economic and non-economic damages.  
11

12  
13 FIRST CAUSE OF ACTION FOR VIOLATION OF 42 U.S.C. SECTION 1983 –

14 Excessive Force/False Arrest/Malicious Prosecution

15  
16 (As to all Defendants)

17 13. Plaintiff incorporates paragraphs 1 through 12, into this cause of action, as  
18 if fully set forth.  
19

20 14. Defendant City of Hesperia's and County of San Bernardino's customs,  
21 practices, and policies, as described above, amount to a deliberate indifference to the  
22 rights of persons, such as plaintiff, who wished to be free from unreasonable seizures  
23 under the Fourth and Fourteenth Amendments and to be free from excessive force, and  
24 not to be falsely arrested and maliciously prosecuted, both without probable cause,  
25 violating Plaintiff's rights under the Fourth Amendment. The prosecution of plaintiff  
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1 was based on perjury and manufactured evidence against plaintiff. The individual  
2 Defendants, who used excessive force, falsely arrested and maliciously prosecuted  
3 plaitinff were acting under color of authority in their role as employees of Defendant  
4 City of Hesperia and the County of San Bernardino.  
5

6  
7 15. In acting as alleged in this Complaint, Defendants violated Plaintiffs' right  
8 to be free from unreasonable seizures under the Fourth and Fourteenth Amendments of  
9 the United States Constitution by creating a seizure of Plaintiff's person.  
10

11 16. As a direct and proximate result of Defendants' actions, described in this  
12 Complaint, Plaintiff has suffered injury, loss and damage, including loss of liberty,  
13 invasion of privacy, emotional distress, pain, suffering, property damage, loss of  
14 property and other economic and non-economic damages.  
15

16 17. In acting as alleged in this Complaint, the individual Defendants acted  
17 knowingly, willingly and maliciously, and with reckless and callous disregard for  
18 Plaintiff's federally-protected rights.  
19

20  
21 **Punitive Damages**

22 18. As to all causes of actions, the actions described above by the individual  
23 Defendants was willful, wanton malicious and oppressive for the reasons stated above.  
24 These actions therefore justify the awarding of punitive damages.  
25

26 Plaintiff prays for judgment against each Defendant as follows:  
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28

- 1 1. For compensatory damages, in an amount to be determined according to proof
- 2 at trial;
- 3
- 4 2. For reasonable attorney's fees, pursuant to 42 U.S.C. Section 1988;
- 5
- 6 3. Against the individual Defendants only, and not Defendant City of Hesperia or
- 7 County of San Bernardino, for punitive damages in an amount to be determined at trial;
- 8
- 9 4. For costs of suit incurred in this action; and
- 10
- 11 5. For such other and further relief as the Court deems proper.

12 Dated: December 18, 2015

Respectfully submitted,

13  
14 By:



15 Michael Reiter  
16 Attorney for Plaintiff Keston Cheathem

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18 DEMAND FOR JURY TRIAL

19  
20 Plaintiff Keston Cheathem hereby demands a jury trial.

21  
22 Dated: December 18, 2015

Respectfully submitted,

23  
24 By:



25 Michael Reiter  
26 Attorney for Plaintiff Keston Cheathem